

HOUSE BILL REPORT

E2SHB 1701

As Amended by the Senate

Title: An act relating to authorizing the department of information services to engage in high-speed internet activities.

Brief Description: Authorizing the department of information services to engage in high-speed internet activities.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Hudgins, McCoy and Hasegawa).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/4/09, 2/12/09 [DPS];

Ways & Means: 2/27/09, 3/2/09 [DP2S(w/o sub TEC)].

Floor Activity

Passed House: 3/9/09, 93-2.

Senate Amended.

Passed Senate: 4/16/09, 45-0.

Brief Summary of Engrossed Second Substitute Bill

- Authorizes the Department of Information Services (DIS) to implement a high-speed internet strategy for the state, subject to available funding.
- Designates the DIS as an eligible entity for purposes of the federal Broadband Data Improvement Act.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives McCoy, Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Eddy, Finn, Hasegawa, Herrera, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

Staff: Kara Durbin (786-7133)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross and Schmick.

Staff: Steve Smith (786-7178)

Background:

Federal Broadband Efforts.

In 2008 Congress passed the Broadband Data Improvement Act (Act). Part of the Act directed the Secretary of Commerce to make competitive grants available to states to support identification and tracking of availability and adoption of broadband services. Any competitive grants awarded would require a 20 percent match of non-federal funding.

The Act also required the Federal Communications Commission (FCC) to provide eligible entities with electronic access to aggregate data collected by the FCC from broadband service providers. "Eligible entity" is defined as an entity that is: (1) either a state agency or instrumentality of the state, a non-profit organization, or certain independent agencies; and (2) the single eligible entity designated by the state to receive such a grant.

While the Act provided authorization for funding, no funds have been appropriated by the federal government to implement the Act.

State Broadband Efforts.

In 2008 the Legislature directed the Department of Information Services (DIS) to convene a work group to identify and develop strategies for high-speed internet deployment and adoption. The DIS established the High-Speed Internet Strategy Work Group (Work Group) in June of 2008, which included representatives from government, community, education, business, non-profit, economic development, health care, technology, union, public utility, and service provider interests. The Work Group met seven times between July of 2008 and November of 2008. It issued its final report to the Legislature on December 1, 2008.

In its report, the DIS, in concurrence with the Work Group, made the following recommendations:

1. *Defining High-Speed Internet Service:* The state should adopt a definition of "high-speed internet service" that is consistent with the FCC's broadband speed tiers in the upload and download direction, except for the bottom tier. High-speed internet should also be defined by the applications it can enable.

2. *Mapping*: The state should consider mapping at the census tract level, rather than the census block level. The map should be produced by a third-party entity to ensure the confidentiality of proprietary and competitively sensitive data. The map should provide adoption information, availability information, the technology used, and available speed tiers. The map should provide a link to the service provider's web site to provide pricing data. An interactive, web-based map also should be available to allow queries and inputs from consumers.

3. *Local Technology Teams*: The DIS should coordinate Local Technology Planning Teams (LTPTs) and assist the LTPTs in conducting local needs assessments, developing and implementing strategic plans, and identifying funding sources.

4. *Spurring Development*: The state should conduct several initiatives to spur the development of high-speed internet in the state, which may include expanding the Community Technology Opportunities Program, soliciting funding sources, and establishing low-cost hardware and software programs.

5. *Benchmarks*: The DIS should oversee tracking of residential, business, and statewide high-speed internet adoption. A variety of metrics and benchmarks should be used to measure the success of the state's high-speed internet deployment and adoption strategy.

The final report also recommended that legislation be introduced to: (1) authorize the DIS to coordinate implementation of the high-speed internet deployment and adoption strategy, as outlined in the report; and (2) provide initial funding to support implementation.

Summary of Engrossed Second Substitute Bill:

The Department of Information Services (DIS) is designated as an eligible entity for purposes of the federal Broadband Data Improvement Act.

The DIS may receive federal funds for broadband. Any funds received must be spent consistent with federal and state law and any conditions on the grant of those funds.

The DIS must implement a high-speed internet deployment and adoption strategy on behalf of the state, subject to available federal or state funding. Implementation of the strategy may include: (1) developing an interactive website to allow residents to self-report where high-speed internet is available; (2) soliciting gifts, grants, and bequests for high-speed internet; and (3) conducting a survey of high-speed internet owned or leased by state agencies and creating a geographic information system map.

The DIS may adopt rules as necessary to implement a high-speed internet deployment and adoption strategy.

The DIS is authorized to conduct a competitive bidding process to procure a geographic information system map of high-speed internet infrastructure, service availability, and adoption based on publicly available data collected by the Federal Communications Commission (FCC). The DIS may procure this map by purchasing a completed map from a

third party or working directly with the FCC to accept publicly available high-speed internet data.

The DIS may accept high-speed internet infrastructure information from telecommunications or high-speed internet service providers if it is voluntarily provided.

EFFECT OF SENATE AMENDMENT(S):

Authorizes the Governor to take all appropriate steps to receive and maximize federal broadband funding, which may include designating a broadband coordinator, reviewing and prioritizing grant applications, disbursing block grant funding, and providing direction to state agencies to carry out broadband programs.

Transfer the Community Technology Opportunity Program (CTOP) and its associated account to the DIS.

Authorizes the DIS to prepare annual reports related to broadband.

Creates a broadband mapping account in the custody of the State Treasurer. Expands the Community Technology Opportunity Account to include appropriations and funds deposited for the purpose of broadband deployment and adoption.

Authorizes the Department of Information Services (DIS) to oversee implementation of federally funded or mandated broadband programs for the state. Authorizes DIS to reconvene the 2008 High Speed Internet Strategy Work Group, which is renamed the Council on Digital Inclusion (Council). Requires the Council to prepare annual reports related to broadband and advanced telecommunications.

Specifies the DIS must establish an accountability and oversight process to ensure there is transparency in the bidding and contracting process for procurement of any broadband map, as well as for any actions taken by a third-party contractor in creating a broadband map.

Specifies that the DIS may not impose any condition on a third party, as part of contracting for the purchase of a broadband map, that causes any record submitted by a broadband service provider to the third party to meet the standard of a public record.

Requires the DIS to consult with the Department of Community, Trade and Economic Development, the Office of Financial Management, and the Utilities and Transportation Commission in coordinating broadband mapping activities. Specifies that the confidentiality provisions of the federal Broadband Data Improvement Act that apply to the DIS are deemed to encompass the consulted agencies.

Adds several definitions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Technology, Energy & Communications):

(In support) The High Speed Internet Strategy Work Group (Work Group) was an excellent start in moving the state forward on broadband. The goal is to bring forward and implement the recommendations of the Work Group without it costing the state very much money. The state needs to position itself to be ready to receive federal funding

Broadband is of critical value to all parts of our state – rural and urban. Jobs, business, education, and health care can be more efficiently distributed by government with broadband.

The federal economic stimulus package has included \$350 million for mapping, infrastructure and other efforts. This funding, if approved, could support a multi-year broadband effort in our state.

Broadband deployment and adoption programs should all be housed at one place - the Department of Information Services (DIS). The take rate is often a function of being able to afford the monthly fee. We hope to position the DIS to apply for federal funding for low-income access to broadband.

(In support with concerns) It is important to work with community groups in which there is no broadband provider to identify opportunities where broadband would increase take rates. Some areas are very expensive to serve.

Creating an interactive web site for subscribers is helpful, but it is a small portion. If subscribers are the only ones inputting data, it may not give the state enough information to use to create a map.

(With concerns) The map should be meaningful so that we get broadband deployment at the right speed.

(Opposed) We are concerned about the protection of proprietary data.

Staff Summary of Public Testimony (Ways & Means):

None.

Persons Testifying (Technology, Energy & Communications): (In support) Representative Hudgins, prime sponsor; and Gail Love, Communications Workers of America.

(In support with concerns) Ron Main, Broadband Cable Association; and Mary Taylor, Century Tel.

(With concerns) Vicki Austin, Washington Public Utility Districts Association.

(Opposed) Steve Gano, AT&T.

Persons Testifying (Ways & Means): None.

Persons Signed In To Testify But Not Testifying (Technology, Energy & Communications): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.